THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.NO.27274 OF 2005

Dt.22.12.2005

Between:

M.Parvatamma … Petitioner

And

The District Collector & District Magistrate,

Anantapur and 4 others. … Respondents

ORDER:

Heard the learned counsel for the petitioner, the learned Government Pleader for Civil Supplies and the learned counsel appearing on behalf of the 5th respondent.

The petitioner herein was appointed as permanent fair price shop dealer of Chagaleru Village, Chilamathur Mandal, Anantapur District. Based on the report of the Mandal Revenue Officer, Chilmathur, dated 24.3.2005, the dealership of the petitioner was suspended by framing as many as five charges calling upon the petitioner to submit explanation within seven days from the date of receipt of the suspension cum show cause notice dated 12.4.2005. Thereupon, the petitioner filed his explanation on 20.8.2005. Even before filing the explanation, the petitioner filed an appeal against the order of

suspension before the Joint Collector, Anantapur and the appellate authority by order dated 6.5.2005 stayed the order of suspension and remanded the matter to the Revenue Divisional Officer for disposal as per rules giving opportunity of hearing to the petitioner.

The suspension cum show cause notice dated 12.4.2005 goes to show that while issuing the said order the petitioner was called upon to submit her explanation to appear before the Revenue Divisional Officer, Penukonda, but the petitioner without submitting any explanation filed an appeal and the appellate authority without dealing with all the charges stayed the suspension order and remanded the matter. After the remanding the matter only the petitioner submitted his explanation on 20.8.2005. A reading of the explanation submitted by the petitioner did not disclose any request to provide personal hearing, but she only gave reply to all the five charges. After considering the explanation, the 3rd respondent passed final orders on 25.11.2005 dealing with all the five charges and held that that all the charges have been proved and accordingly the authorization of the petitioner has been cancelled in exercise of his powers under Clause 3(4) of the annexure to the A.P.State Public Distribution System Control Order, 2001 (hereinafter referred to as 'the Control Order'). As against the said order, the petitioner filed an appeal before the Joint Collector, Anantapur and the Joint Collector by a cryptic order of three sentences dated 7.12.2005 again remanded to the Revenue Divisional Officer for disposal of the matter afresh after affording an opportunity of personal hearing to the petitioner herein. As against the said orders, the 5th respondent, who is a cardholder, filed a revision before the Collector under Clause 21 of the Control Order and the Collector while admitting the revision stayed the operation of the order of the Joint Collector dated 7.12.2005 directing to honour the order of the Revenue Divisional Officer dated 25.11.2005, pending disposal of the revision. Aggrieved by the said order of the first respondent, this writ petition has been filed.

The learned counsel for the petitioner contends that under Clause

21(ii) of the Control Order the revisional authority is not entitled to pass any orders unless the aggrieved person has given an opportunity of representing her case.

I am of the opinion that the said proviso applies for the final orders to be passed by the revisional authority. But, clause 21(iii) makes it clear that the revisional authority/District Collector is empowered to direct that the order under revision shall not have any effect until the revision is disposed of. Clause 7(3) annexe to the Control Order also empowers the District Collector to grant stay of the order impugned in the revision. Therefore, I am of the opinion that proviso to clause 7(2) annexe to the Control Order and clause 21(iii) goes to show that power has been given to the revisional authority to grant ex parte stay in an appropriate case. In view of the same, I am unable to accept the contention of the learned counsel for the petitioner that the revisional authority has no power to grant stay without hearing the aggrieved person.

In view of the aforesaid facts and circumstances of the case, the writ petition is dismissed. However, the first respondent is directed to dispose of the revision after giving reasonable opportunity to the revision petitioner as well as the petitioner herein, as expeditiously as possible preferably within three weeks from the date of receipt of a copy of this order. No order as to costs.

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(V.ESWARAIAH, J.)

22.12.2005

Note: Issue copy within two days

B.O.

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